

Introduced by Senator Negrete McLeod

February 15, 2011

An act to amend Sections 22404, 22851, 23100, 23101, 23103, 23104, 23801, 23802, 23851, 23852, 23854, 24001, 24002, 24003, 24102, 24103, 24204, 24205, 24214, 24214.5, 24216, 24216.5, 24216.6, 24300.1, 24309, 24600, and 26505 of, and to add Sections 22161.3, 22853.5, 26812, and 26813 to, the Education Code, relating to teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 349, as introduced, Negrete McLeod. State Teachers' Retirement Plan.

(1) Existing law permits the Teachers' Retirement Board, which administers the State Teachers' Retirement System (STRS) and the State Teachers' Retirement Plan, to establish an amount, not to exceed \$10, below which the system may dispense with the processing of benefit payments or the collection of benefit overpayments.

This bill would extend this authority to other payments and overpayments provided under the plan in addition to those related to benefits.

(2) Existing law grants a member of STRS who returns to employment after performing uniformed services, as defined, certain rights and benefits, including treatment as if there was no break in the member's service to his or her employers for the period of the uniformed services and having that period of uniformed service count towards vesting and eligibility in the defined benefit program.

This bill would extend certain of these rights and benefits to a member who dies during uniformed services, would require that qualified military service, as defined, be counted for the purpose of vesting and eligibility

for membership if the member dies during that service, and would prescribe how this service is to be calculated. The bill would permit this service to apply to the payment of certain death benefits to a beneficiary, and to survivor benefits, under specified circumstances.

(3) Existing law requires, upon a termination of a member's employment by any cause other than death, disability, or retirement, that certain amounts be paid to the member, including his or her accumulated retirement contributions and annuity deposits.

This bill would require that these payments be made upon termination of employment generally and the member's election to be paid. The bill would authorize a reduction in the payment of accumulated retirement benefits by the amount of retirement or disability benefits paid. The bill would also provide that specified beneficiary designations would be invalidated upon a refund of accumulated retirement contributions and would prescribe how the refund request would be made or determined by the board.

(4) Existing law permits a member of STRS to apply for a disability allowance if certain requirements are met, including that the member has neither attained normal retirement age, nor possesses sufficient unused sick leave days to receive creditable compensation on account of sick leave to reach normal retirement age.

This bill would make technical changes in these provisions.

(5) Existing law requires a member of STRS to provide medical documentation to substantiate the impairment qualifying the member for a disability allowance or retirement. Existing law permits the system to order a medical examination of a member to determine whether the member is incapacitated for performance of service and prescribes procedures for this purpose.

This bill would also authorize the system to order also a review of medical documentation in this regard. The bill would also make technical changes these provisions.

(6) Existing law prescribes the conditions under which a STRS service retirement allowance becomes effective and requires, in this regard, that the effective date be no earlier than the first day of the month in which the application is received at the system's headquarters office.

This bill would delete the requirement described above.

(7) Existing law permits a member retiring prior to 60 years of age, who has attained 55 years of age, to elect to receive ½ of the service retirement allowance for normal retirement age for a limited time and then revert to the full retirement allowance for normal retirement age.

Existing law excepts from this authorization members retiring for service pending a disability.

This bill would also except from this authorization members retiring for service following reinstatement, members who perform creditable service for 2 or more years after reinstatement, and members who retire after a prior disability retirement is terminated, among others.

(8) Existing law permits a retired member of STRS to perform specified activities as an employee of an employer in the system, as an employee of a 3rd party, or as an independent contractor within the California public school system, but prohibits the member from making contributions to the retirement fund or accruing service credit based on compensation earned from that service. Existing law conditions this authorization on a variety of factors including limitations on the rate of pay of the member and the total amount of compensation.

This bill would also permit a retired member, pursuant to the limitations described above, to perform the work of county and district superintendents who are responsible for the supervision of persons or administration of certain duties and to perform trustee work for the Cash Balance Benefit Program.

(9) Existing law exempts certain members of STRS retired for service who are appointed as a trustee or administrator of specific programs, including those relating to underperforming schools, from specified limitations on postretirement compensation. Existing law conditions these exemptions on the submission of documentation required by the system to substantiate the eligibility of the member no later than June 30 of the school year for which the exemption is to apply.

This bill would provide that this documentation be submitted no later than 60 calendar days after the member commences performing creditable service.

(10) Existing law exempts a retired member of STRS from certain compensation limitations if various conditions are met, among them that the member provide service in specified capacities, including the Pre-Internship Teaching Program.

This bill would delete the Pre-Internship Teaching Program from the permitted forms of service in this regard.

(11) Existing law permits a member of STRS, prior to the effective date of his or her retirement, to elect an option that provides an actuarially modified retirement allowance payable throughout the life of the member and the member's option beneficiary or beneficiaries.

Existing law also prescribes how a member may change or cancel these options.

This bill would revise when these designations, changes, or cancellations must be submitted.

(12) Existing law provides that a child's portion of a STRS retirement allowance begins to accrue on the effective date of that allowance and ceases on the earlier of either the termination of the child's eligibility or the termination of the allowance.

This bill would prescribe when a child's portion of a disability retirement allowance terminates.

(13) Existing law establishes the Cash Balance Benefit Program, administered by the State Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan.

This bill would permit a member retired for service under the Cash Balance Benefit Program to perform specified activities as an employee of an employer in the system, as an employee of a 3rd party, or as an independent contractor within the California public school system, but would prohibit the member from making contributions to the retirement fund or accruing service credit based on compensation earned from that service. The bill would condition this authorization on a variety of factors including limitations on the rate of pay of the member and the total amount of compensation, as well as on the employer maintaining accurate records in this regard, among other things.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22161.3 is added to the Education Code,
2 to read:
3 22161.3. Qualified military service is military service as defined
4 in subdivision (u) of Section 414 of Title 26 of the United States
5 Code.
6 SEC. 2. Section 22404 of the Education Code is amended to
7 read:
8 22404. (a) Notwithstanding any other provision of this part
9 or Part 14 (*commencing with Sec. 26000*) to the contrary, the board
10 may establish by plan amendment a specified amount or amounts,
11 not to exceed ten dollars (\$10), below which the system may
12 dispense with the processing of benefit *or other* payments or

1 collection of benefit *or other* overpayments that result from
2 adjustments made to the benefit *or other amount* paid to a member,
3 participant, or beneficiary.

4 (b) When the cumulative dollar amount associated with one or
5 more benefit *or other* adjustments equals or exceeds the amount
6 described in subdivision (a), that amount shall be paid to, or
7 collected from, the member, participant, or beneficiary. That
8 cumulative amount paid or collected shall not be credited with
9 interest.

10 SEC. 3. Section 22851 of the Education Code is amended to
11 read:

12 22851. The right to pension benefits under this part of a
13 member *who dies or* who returns to employment with the same
14 employer which had employed the member immediately prior to
15 the eligible period of service in the uniformed services, and is
16 subject to Chapter 43 (commencing with Section 4301) of Title
17 38 of the United States Code shall be determined under this section.

18 (a) (1) A *reemployed or deceased* member shall be treated as
19 not having incurred a break in service by reason of that member's
20 eligible period or periods of service in the uniformed services.

21 (2) (A) Each eligible period of service served by a member in
22 the uniformed services shall, upon return to employment, with the
23 same employer which had employed the member immediately
24 prior to the eligible period of service in the uniformed services, *or*
25 *upon death*, be deemed to constitute service with the employer or
26 employers toward plan vesting and eligibility for membership in
27 the Defined Benefit Program.

28 (B) *In cases of death during qualified military service, service*
29 *shall be calculated under Section 22853.5 and shall be used*
30 *exclusively for plan vesting and eligibility for membership*
31 *purposes. Service that is deemed to the member in this way shall*
32 *not be used for benefit calculations based on service credit*
33 *balances.*

34 (3) A member who returns to employment, with the same
35 employer which had employed the member immediately prior to
36 the eligible period of service in the uniformed services shall not
37 be entitled to any benefits under this part in respect of service in
38 the uniformed services to which the member would not otherwise
39 have been entitled had the member remained continuously

1 employed and not undertaken such service in the uniformed
2 services.

3 (b) For purposes of calculating benefits, a member who returns
4 to employment with the same employer which had employed the
5 member immediately prior to the eligible period of service in the
6 uniformed services shall be entitled to service credit under this
7 part for the eligible period of service in the uniformed services
8 upon his or her payment of the member contributions required
9 under Section 22901 that otherwise would have been due for such
10 period of service had the member remained continuously employed
11 and not undertaken such service in the uniformed services. No
12 such payment of member contributions may exceed the amount
13 the member would have been required to contribute under this part
14 had the member not served in the uniformed services and had
15 remained continuously employed by the employer throughout the
16 eligible period of service in the uniformed services. If a member
17 fails to remit the member contributions that would have been
18 required under Section 22901 in respect of the eligible period of
19 service in the uniformed services no service credit shall be provided
20 under this part for the period to which the omitted contributions
21 relate.

22 (c) Any payment of member contributions to the Defined Benefit
23 Program in this section shall be made by the member during the
24 period beginning with the date of return to employment and may
25 continue for three times the period of the member's eligible service
26 in the uniformed services, not to exceed five years. Any payment
27 of member contributions to the Defined Benefit Program in this
28 section by a member who returned to employment prior to January
29 1, 1997, and qualifies for benefits in accordance with the
30 Uniformed Services Employment and Reemployment Rights Act
31 of 1994 (Chapter 43 (commencing with Section 4301) of Title 38
32 of the United States Code), shall be made by the member during
33 the period beginning with the date of notification of eligibility by
34 the employer to the system and may continue for three times the
35 period of the member's eligible service in the uniformed services,
36 not to exceed five years. Any subsequent request to purchase this
37 service shall be subject to the provisions of Chapter 14
38 (commencing with Section 22800). If all contributions due under
39 this part are not paid to the plan with respect to the Defined Benefit
40 Program within the specified repayment period and in accordance

1 with subdivision (b) of Section 22851 the contributions shall be
2 returned to the member at the end of the repayment period. Interest
3 on member contributions made for the eligible period of service
4 in the uniformed services shall not be credited under this part until
5 after the contributions due are paid and then only prospectively to
6 the member's account in accordance with Section 22216.

7 SEC. 4. Section 22853 is added to the Education Code, to read:
8 22853. For purposes of computing service to award to members
9 who die during qualified military service, service shall be computed
10 as follows:

11 (a) The service credit the member would have received for the
12 eligible period of service through the beginning of the period of
13 qualified military leave through the date of death.

14 (b) In the event the service credit earnable is not reasonably
15 certain, vesting credit shall be based on the member's average
16 service credit earned during the 12-month period immediately
17 preceding the eligible period of service in the uniformed services
18 or, if shorter, the period of employment immediately preceding
19 that period of service.

20 SEC. 5. Section 23100 of the Education Code is amended to
21 read:

22 23100. (a) ~~Upon the termination of a member's employment~~
23 ~~by any cause other than death, disability, or retirement there shall~~
24 ~~be paid to the member, a member may elect to be paid,~~ pursuant
25 to this part, each of the following:

26 (1) The member's accumulated retirement contributions made
27 after June 30, 1935.

28 (2) The member's accumulated annuity deposit contributions.

29 (3) An amount equal to the balance of credits in the member's
30 Defined Benefit Supplement account.

31 (b) Accumulated retirement contributions and accumulated
32 annuity deposit contributions shall include credited interest through
33 the date of payment.

34 (c) *Accumulated retirement contributions shall be reduced by*
35 *the amount of retirement or disability benefits paid to a member*
36 *pursuant to this part.*

37 SEC. 6. Section 23101 of the Education Code is amended to
38 read:

39 23101. (a) When a member's accumulated retirement
40 contributions are refunded, as provided in Section 23100, all rights

1 to benefits pertaining to the service credit represented by those
2 contributions under this part are forfeited. Those rights and
3 benefits, based upon service performed prior to refund, shall not
4 be restored until the member has redeposited the total of the
5 refunded accumulated retirement contributions, and paid the regular
6 interest thereon as provided in Chapter 19 (commencing with
7 Section 23200).

8 (b) *In addition to the rights and benefits described in subdivision*
9 *(a), any beneficiary designation made by a member pursuant to*
10 *Chapter 20 (commencing with Section 23300) and Chapter 28*
11 *(commencing with Section 24300) under this part shall be*
12 *invalidated upon the refund of the member's accumulated*
13 *retirement contributions.*

14 SEC. 7. Section 23103 of the Education Code is amended to
15 read:

16 23103. Refunds to a member shall be made upon request of
17 the member *on a properly executed form prescribed by the system,*
18 or may be made without a request if it ~~appears to~~ *is determined by*
19 the board that the member's employment is permanently terminated
20 and the member does not have enough credited service under the
21 Defined Benefit Program to qualify for service retirement under
22 this part.

23 SEC. 8. Section 23104 of the Education Code is amended to
24 read:

25 23104. (a) Deposit in the United States mail of an initial
26 warrant drawn as directed by the member as a refund of
27 contributions upon termination of employment, and addressed to
28 the address directed by the member, constitutes a return of the
29 member's accumulated retirement contributions under this part.

30 (b) If the member has elected on a form provided by the system
31 to transfer all or a specified portion of the accumulated retirement
32 contributions that are eligible for direct trustee-to-trustee transfer
33 to the trustee of a qualified plan under Section 402 of the Internal
34 Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the
35 United States mail of a notice that the requested transfer has been
36 made constitutes a return of the member's accumulated retirement
37 contributions under this part.

38 (c) For refunds not involving direct trustee-to-trustee transfers,
39 if the member returns the total gross distribution amount to the
40 system's headquarters office, as established pursuant to Section

22375, within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

(d) For refunds involving direct trustee-to-trustee transfers, if the member returns the warrant drawn to the trustee of the qualified plan *or the trustee returns the amount of the qualified refund* and, if applicable, any additional amounts necessary to equal, but in no event to exceed, the total gross distribution amount to the system's headquarters office, as established pursuant to Section 22375, within 30 days from the mailing date, the refund shall be canceled and the person shall be restored as a member of the Defined Benefit Program with all the rights and privileges under this part restored.

SEC. 9. Section 23801 of the Education Code is amended to read:

23801. (a) A death payment of no less than five thousand dollars (\$5,000) shall be paid to the beneficiary upon receipt of proof of death of a member who had one or more years of credited service, *including service deemed to the member under subparagraph (B) of paragraph (2) of subdivision (a) of Section 22851*, at least one of which had been ~~performed~~ *earned* subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in employment for which creditable compensation is paid.

(2) While disabled, if the disability had been continuous from the last day for which creditable compensation had been paid.

(3) Within four months after termination of creditable service or termination of employment, whichever occurs first.

(4) Within four months after termination of a disability allowance if no service was performed after the termination.

(5) Within 12 months of the last day for which creditable compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability ~~or military service~~.

(6) *While on a leave of absence to perform qualified military service, if the death occurred on or after January 1, 2007.*

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing

1 with the effective date of reinstatement from service retirement
2 pursuant to Section 24208.

3 (c) The board may adjust the death payment amount following
4 each actuarial valuation based on changes in the All Urban
5 California Consumer Price Index and adopt any adjusted amount
6 as a plan amendment.

7 (d) A beneficiary may waive his or her right to the death
8 payment in accordance with the requirements established by the
9 system.

10 SEC. 10. Section 23802 of the Education Code is amended to
11 read:

12 23802. (a) Upon receipt of proof of death of a member who
13 has no preretirement option in effect, and who *either does not meet*
14 *the eligibility requirements set forth in Section 23804, or meets*
15 *the eligibility requirements set forth in Section 23804 but* has no
16 eligible survivors for a family allowance *as specified in Section*
17 *23805 or 23806*, there shall be paid to the beneficiary both of the
18 following:

19 (1) The accumulated retirement contributions after July 1, 1935.

20 (2) The accumulated annuity deposit contributions.

21 (b) Accumulated contributions include credited interest through
22 the date of payment.

23 SEC. 11. Section 23851 of the Education Code is amended to
24 read:

25 23851. (a) A death payment of not less than twenty thousand
26 dollars (\$20,000) shall be paid to the beneficiary, as designated
27 pursuant to Section 23300, upon receipt of proof of death of a
28 member, who had one or more years of credited service, *including*
29 *service deemed to the member under subparagraph (B) of*
30 *paragraph (2) of subdivision (a) of Section 22851*, at least one of
31 which had been ~~performed~~ *earned* subsequent to the most recent
32 refund of accumulated retirement contributions, if the member
33 died during any one of the following periods:

34 (1) While in employment for which creditable compensation is
35 paid.

36 (2) Within four months after termination of creditable service
37 or termination of employment, whichever occurs first.

38 (3) Within 12 months of the last day for which creditable
39 compensation was paid, if the member was on an approved leave

1 of absence without creditable compensation for reasons other than
2 disability ~~or military service~~.

3 (4) *While on a leave of absence to perform qualified military*
4 *service, if the death occurred on or after January 1, 2007.*

5 (b) A death payment pursuant to this section shall not be payable
6 for the death of a member that occurs within one year commencing
7 with the effective date of termination of the service retirement
8 allowance pursuant to Section 24208 or during the six calendar
9 months commencing with the effective date of termination of the
10 disability retirement allowance pursuant to Section 24117.

11 (c) The board may adjust the death payment amount following
12 each actuarial valuation based on changes in the All Urban
13 California Consumer Price Index and adopt as a plan amendment
14 with respect to the Defined Benefit Program any adjusted amount.

15 (d) A designated beneficiary may waive the right to the death
16 payment in accordance with the requirements established by the
17 system.

18 SEC. 12. Section 23852 of the Education Code is amended to
19 read:

20 23852. Upon receipt of proof of death of a member who has
21 no preretirement option in effect:

22 (a) The surviving spouse may elect to receive either of the
23 following:

24 (1) The member's accumulated retirement contributions in a
25 lump sum.

26 (2) ~~The~~ *If the member meets the provisions set forth in Section*
27 *23854, the survivor benefit allowance pursuant to Sections 23854*
28 *and 23855.*

29 (b) ~~If there is no eligible surviving spouse, and the member~~
30 ~~meets the provisions set forth in Section 23854, then each eligible~~
31 ~~dependent child or children~~ shall receive the child's portion of the
32 survivor benefit allowance pursuant to Sections 23854, 23855, and
33 23856. The child's portion of the survivor benefit allowance shall
34 be paid in lieu of the return of the member's accumulated
35 retirement contributions.

36 (c) ~~If there is no eligible surviving spouse or eligible dependent~~
37 ~~child or children to receive a benefit under subdivision (a) or (b),~~
38 the member's accumulated retirement contributions shall be paid
39 to the member's beneficiary in a lump sum.

1 (d) The member's accumulated annuity deposit contributions
2 shall be paid to the member's beneficiary in a lump sum.

3 (e) The payment of accumulated contributions in a lump sum
4 shall include credited interest through the date of payment.

5 SEC. 13. Section 23854 of the Education Code is amended to
6 read:

7 23854. (a) A survivor benefit allowance is payable upon receipt
8 of proof of death of a member, as defined in Section 23850, who
9 had one or more years of credited service, *including deemed service*
10 *under subparagraph (B) of paragraph (2) of subdivision (a) of*
11 *Section 22851*, at least one of which had been ~~performed~~ *earned*
12 subsequent to the most recent refund of accumulated retirement
13 contributions.

14 (b) For the survivor benefit allowance to be payable upon the
15 death of a member, all of the following conditions shall be met at
16 the time of death:

17 (1) Death occurred after October 15, 1992.

18 (2) A preretirement election of an option is not in effect.

19 (3) Death occurs during any one of the following periods:

20 (A) While in employment for which compensation is paid.

21 (B) Within four months after termination of service or
22 termination of employment, whichever occurs first.

23 (C) Within four months after termination of disability allowance.

24 (D) Within four months after reinstatement from disability
25 retirement.

26 (E) Within 12 months following the last day for which
27 compensation was paid if the member was on an approved leave
28 of absence without compensation for reasons other than disability
29 ~~or military service~~.

30 (F) *While on a leave of absence to perform qualified military*
31 *service, if the death occurred on or after January 1, 2007.*

32 (4) At least one-half year of credited service had been performed
33 subsequent to the end of the last break in service, if a break in
34 service of more than one year had occurred.

35 (5) At least one year of credited service had been performed
36 subsequent to the last reinstatement date, if reinstated from service
37 retirement.

38 (c) The survivor benefit allowance shall be paid in lieu of the
39 return of the member's accumulated retirement contributions.

1 (d) The survivor benefit allowance may be terminated, if all
2 eligible beneficiaries formally waive their rights in accordance
3 with the requirements established by the system.

4 SEC. 14. Section 24001 of the Education Code is amended to
5 read:

6 24001. (a) (1) A member may apply for a disability allowance
7 under the Defined Benefit Program, upon written application for
8 disability allowance to the board on a properly executed form
9 provided by the system, if the member has five or more years of
10 credited service and if all of the following requirements are met:

11 ~~(1)~~

12 (A) At least four years were credited for actual performance of
13 service subject to coverage under the Defined Benefit Program.
14 Credit received because of workers' compensation payments shall
15 be counted toward the four-year requirement in accordance with
16 Section 22710.

17 ~~(2)~~

18 (B) The last five years of credited service were performed in
19 this state.

20 ~~(3)~~

21 (C) Except as described in subdivision (d) of Section 24201.5,
22 at least one year was credited for service performed subsequent to
23 the date on which the member terminated the service retirement
24 allowance under Section 24208.

25 ~~(4)~~

26 (D) At least one year was credited for service performed
27 subsequent to the most recent refund of accumulated retirement
28 contributions.

29 ~~(5)~~

30 (E) The member has neither attained normal retirement age, nor
31 possesses sufficient unused sick leave days to receive creditable
32 compensation on account of sick leave to normal retirement age.

33 ~~(6)~~

34 (F) The member is not applying for a disability allowance
35 because of a physical or mental condition known to exist at the
36 time the most recent membership in the Defined Benefit Program
37 commenced and remains substantially unchanged at the time of
38 application.

39 (2) *A member who becomes disabled prior to normal retirement*
40 *age, who has sick leave which will extend beyond normal*

1 *retirement age, and who has a dependent child, may be awarded*
2 *a disability allowance with an effective date after normal*
3 *retirement age if the application is filed prior to attaining normal*
4 *retirement age.*

5 (b) Nothing in subdivision (a) shall affect the right of a member
6 to a disability allowance under this part if the reason that the
7 member is credited with less than four years of actual service
8 performed subject to coverage under the Defined Benefit Program
9 is due to an on-the-job injury or a disease that occurred while the
10 member was employed and the four-year requirement can be
11 satisfied by credit obtained under Chapter 14 (commencing with
12 Section 22800) or Chapter 14.5 (commencing with Section 22850)
13 in addition to any credit received from workers' compensation
14 payments.

15 (c) Nothing in subdivision (a) shall affect the right of a member
16 under this part who has less than five years of credited service to
17 a disability allowance if the following conditions are met:

18 (1) The member has at least one year of credited service
19 performed in this state.

20 (2) The disability is the direct result of an unlawful act of bodily
21 injury that was perpetrated on his or her person by another human
22 being while the member was performing his or her official duties
23 in a position subject to coverage under the Defined Benefit
24 Program.

25 (3) The member provides documentation of the unlawful act in
26 the form of an official police report or official employer incident
27 report.

28 (d) A member who is eligible to apply for a disability allowance
29 pursuant to this section may also apply for a service retirement
30 pending a determination of his or her application for disability as
31 described in Section 24201.5.

32 SEC. 15. Section 24002 of the Education Code is amended to
33 read:

34 24002. (a) The board may authorize payment of a disability
35 allowance to any member who is qualified upon application under
36 this part by the member, the member's guardian or conservator,
37 or the member's employer, if the application is submitted on a
38 properly executed form prescribed by the system during any one
39 of the following periods:

40 (a)

1 (1) While the member is employed or on a compensated leave
2 of absence.

3 ~~(b)~~

4 (2) While the member is physically or mentally incapacitated
5 for performance of service and the incapacity has been continuous
6 from the last day of actual performance of service for which
7 compensation is payable to the member.

8 ~~(e)~~

9 (3) While the member is on a leave of absence without
10 compensation, granted for reason other than mental or physical
11 incapacity for performance of service, and within four months
12 after the last day of actual performance of service for which
13 compensation is payable to the member, or within 12 months of
14 that date if the member is on an employer-approved leave to study
15 at an approved college or university.

16 ~~(d)~~

17 (4) Within four months after the termination of the member's
18 employment subject to coverage under the Defined Benefit
19 Program, if the application was not made under ~~subdivision (b)~~
20 *paragraph (2)* and was not made more than four months after the
21 last day of actual performance of service for which compensation
22 is payable to the member.

23 ~~(e) A member with a dependent child, who becomes disabled~~
24 ~~prior to normal retirement age, and whose sick leave will extend~~
25 ~~beyond normal retirement age, may be awarded a disability~~
26 ~~allowance with an effective date after normal retirement age, if~~
27 ~~the application is filed prior to attaining normal retirement age.~~

28 ~~(f)~~

29 ~~(b) The~~A member is not *qualified to receive a disability*
30 *allowance if the member is applying for a disability allowance*
31 because of a physical or mental condition that existed at the time
32 the most recent membership in the Defined Benefit Program
33 commenced and which remains substantially unchanged at the
34 time of application.

35 SEC. 16. Section 24003 of the Education Code is amended to
36 read:

37 24003. (a) The member shall provide medical documentation
38 to substantiate the impairment qualifying the member for the
39 disability allowance.

(b) On receipt of an application for disability allowance under this part, the system may order a medical examination *or review of medical documentation* of a member to determine whether the member is incapacitated for performance of service. The medical examination *or review of medical documentation* shall be conducted by a practicing physician, selected by the board, with expertise in the member's ~~disability impairment~~ and the board shall pay all costs associated with the examination *or review of medical documentation*. ~~The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration.~~ If the member refuses to submit to the required medical examination *or review of medical documentation*, the application for disability allowance shall be rejected. ~~The~~ *If a medical examination is ordered:*

(1) *The member shall either remain in this state, or return to this state at the member's own expense, to undergo the initial evaluations or examinations medical examination, or the application shall be rejected, unless this requirement is waived by the board.* ~~If The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration.~~

(2) *If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.*

(c) The system may reject the disability allowance application under this part if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22126, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is mentally or physically incapacitated.

(d) If the board determines that a member who has applied for a disability allowance under this part may perform service in the member's former position of employment or in a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to

1 request reasonable accommodation, as directed by the board, may
2 be grounds for cancellation of the disability allowance application.

3 (e) If the employer fails or refuses to provide reasonable
4 accommodation, the board may require the member to pursue an
5 administrative appeal of the employer's denial as a condition for
6 receiving a disability allowance under this part.

7 (f) The system shall inform the member of the rejection or
8 cancellation of the member's disability allowance application under
9 this part within 30 days after that determination is made by the
10 system.

11 (g) In determining whether a member meets the definition of
12 disability pursuant to Section 22126, the board shall make a
13 determination on the basis of competent medical documentation
14 and shall not use the awarding of a disability allowance as a
15 substitute for the disciplinary process.

16 SEC. 17. Section 24102 of the Education Code is amended to
17 read:

18 24102. (a) The board may authorize payment of a disability
19 retirement allowance under this part to any member who is
20 qualified upon application by the member, the member's guardian
21 or conservator, or the member's employer, if the application is
22 submitted on a properly executed form prescribed by the system
23 during any one of the following periods:

24 ~~(a)~~

25 (1) While the member is employed or on a compensated leave
26 of absence.

27 ~~(b)~~

28 (2) While the member is physically or mentally incapacitated
29 for performance of service and the incapacity has been continuous
30 from the last day of actual performance of service for which
31 compensation is payable to the member.

32 ~~(c)~~

33 (3) While the member is on a leave of absence without
34 compensation, granted for reason other than mental or physical
35 incapacity for performance of service, and within four months
36 after the last day of actual performance of service for which
37 compensation is payable to the member, or within 12 months of
38 that date if the member was on an employer-approved leave to
39 study at an approved college or university.

40 ~~(d)~~

(4) Within four months after the termination of the member's employment subject to coverage under the Defined Benefit Program, if the application was not made under ~~subdivision (b) paragraph (2)~~ and was not made more than four months after the last day of actual performance of service for which compensation is payable to the member.

(e)

(b) The member is not *qualified to receive a disability allowance if the member is applying for a disability retirement allowance* because of a physical or mental condition that existed at the time the most recent membership in the Defined Benefit Program commenced and which remains substantially unchanged at the time of application.

SEC. 18. Section 24103 of the Education Code is amended to read:

24103. (a) The member shall provide medical documentation substantiating the impairment qualifying the member for the disability retirement under this part.

(b) On receipt of an application for disability retirement under this part, the system may order a medical examination *or review of medical documentation* of a member to determine whether the member is incapacitated for performance of service. The medical examination *or review of medical documentation* shall be conducted by a practicing physician, selected by the board, with expertise in the member's ~~disability impairment~~, and the board shall pay all costs associated with the examination *or review of medical documentation*. ~~The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration.~~ If the member refuses to submit to the required medical examination *or review of medical documentation*, the application for disability retirement shall be rejected. ~~The~~ *If a medical examination is ordered:*

(1) The member shall either remain in this state, or return to this state at the member's own expense, to undergo the ~~initial evaluations or examinations~~ *medical examination* or the application shall be rejected, unless this requirement is waived by the board. ~~If The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration.~~

1 (2) *If* the member is too ill to be examined, the system shall
2 postpone the examination until the member can be examined. The
3 member or the member's treating physician shall inform the
4 system, in writing, when the medical examination can be
5 rescheduled.

6 (c) The system may reject the disability retirement application
7 under this part if the member fails to provide requested medical
8 documentation to substantiate a disability, as defined in Section
9 22126, within 45 days from the date of the request or within 30
10 days from the time that a legally designated representative is
11 empowered to act on behalf of a member who is mentally or
12 physically incapacitated.

13 (d) If the board determines that a member who has applied for
14 disability retirement under this part may perform service in the
15 member's former position of employment or in a comparable level
16 position with the assistance of reasonable accommodation, the
17 board may require the member to request reasonable
18 accommodation from the employer. Failure of the member to
19 request reasonable accommodation, as directed by the board, may
20 be grounds for cancellation of the disability retirement application
21 under this part.

22 (e) If the employer fails or refuses to provide reasonable
23 accommodation, the board may require the member to pursue an
24 administrative appeal of the employer's denial as a condition for
25 receiving a disability retirement allowance under this part.

26 (f) The system shall inform the member of the rejection or
27 cancellation of the member's disability retirement allowance
28 application under this part within 30 days after that determination
29 is made by the system.

30 (g) In determining whether a member meets the definition of
31 disability pursuant to Section 22126, the board shall make a
32 determination on the basis of competent medical documentation
33 and shall not use the awarding of a disability retirement as a
34 substitute for the disciplinary process.

35 SEC. 19. Section 24204 of the Education Code is amended to
36 read:

37 24204. A service retirement allowance under this part shall
38 become effective upon any date designated by the member,
39 provided all of the following conditions are met:

1 (a) An application for service retirement allowance is filed on
2 a form provided by the system, which is executed no earlier than
3 six months before the effective date of retirement allowance.

4 (b) The effective date is later than the last day of creditable
5 service for which compensation is payable to the member.

6 ~~(c) The effective date is no earlier than the first day of the month~~
7 ~~in which the application is received at the system's headquarters~~
8 ~~office, as established pursuant to Section 22375.~~

9 ~~(d)~~

10 (c) The effective date is no earlier than one year following the
11 date on which the retirement allowance was terminated under
12 Section 24208, or subdivision (a) of Section 24117.

13 ~~(e)~~

14 (d) The effective date is no earlier than the date upon and
15 continuously after which the member is determined to the
16 satisfaction of the board to have been mentally incompetent.

17 ~~(f)~~

18 (e) A member who files an application for service retirement
19 may change or cancel his or her retirement application, as long as
20 the form provided by the system is received in the system's
21 headquarters office, established pursuant to Section 22375, no later
22 than the last day of the month in which the retirement date is
23 effective.

24 SEC. 20. Section 24205 of the Education Code is amended to
25 read:

26 24205. A member retiring prior to 60 years of age, and who
27 has attained 55 years of age, may elect to receive one-half of the
28 service retirement allowance for normal retirement age for a limited
29 time and then revert to the full retirement allowance for normal
30 retirement age.

31 (a) The retirement allowance shall be based on service credit
32 and final compensation as of the date of retirement for service and
33 shall be calculated with the factor for normal retirement age.

34 (b) If the member elects a joint and survivor option under
35 Section 24300 or 24300.1, the actuarial reduction shall be based
36 on the member's and beneficiary's ages as of the effective date of
37 the early retirement. If the member elected a preretirement option
38 under Section 24307, the actuarial reduction shall be based on the
39 member's and beneficiary's ages as determined by the provisions
40 of that section.

1 (c) One-half of the retirement allowance as of 60 years of age
2 shall be paid for a period of time equal to twice the elapsed time
3 between the effective date of retirement and the date of the retired
4 member's 60th birthday.

5 (d) The full retirement allowance as calculated under subdivision
6 (a) or (b) shall begin to accrue as of the first of the month following
7 the reduction period as specified in subdivision (c). The full
8 retirement allowance shall not begin to accrue prior to this time
9 under any circumstances, including, but not limited to, divorce or
10 death of the named beneficiary.

11 (e) The annual improvement factor provided for in Sections
12 22140 and 22141 shall be based upon the retirement allowance as
13 calculated under subdivision (a) or (b). The improvement factor
14 shall begin to accrue on September 1 following the retired
15 member's 60th birthday. These increases shall be accumulated
16 and shall become payable when the full retirement allowance for
17 normal retirement age first becomes payable.

18 (f) Any ad hoc benefit increase with an effective date prior to
19 the retired member's 60th birthday shall not affect an allowance
20 payable under this section. Only those ad hoc improvements with
21 effective dates on or after the retired member's 60th birthday shall
22 be accrued and accumulated and shall first become payable when
23 the full retirement allowance for normal retirement age becomes
24 payable.

25 (g) The cancellation of an option election in accordance with
26 Section 24305 shall not cancel the election under this section.
27 Upon cancellation of the joint and survivor option, one-half of the
28 retired member's retirement allowance as calculated under
29 subdivision (a) shall become payable for the balance of the
30 reduction period specified in subdivision (c).

31 (h) If a retired member who has elected a joint and survivor
32 option dies during the period when the reduced allowance is
33 payable, the beneficiary shall receive one-half of the allowance
34 payable to the beneficiary until the date when the retired member
35 would have received the full retirement allowance for normal
36 retirement age. At that time, the beneficiary's allowance shall be
37 increased to the full amount payable to the beneficiary plus the
38 appropriate annual improvement factor increases and ad hoc
39 increases.

(i) This section shall not apply to a member who retires for service pursuant to Section 24201.5, 24209, 24209.3, 24210, 24211, or 24212.

SEC. 21. Section 24214 of the Education Code, as amended by Section 1 of Chapter 306 of the Statutes of 2009, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5, *or subdivision (a) or (b) of Section 26113*, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member ~~may~~ *shall* not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor ~~may~~ *shall* not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part ~~may~~ *shall* not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) (1) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned by a member retired for service under this part who has returned to work after the date of retirement and, for a period of at least 12 consecutive months, has not performed the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an

1 employer, as an employee of a third party, or as an independent
2 contractor within the California public school system. For the
3 purpose of this paragraph, the period of 12 consecutive months
4 shall begin no earlier than the effective date of the member's most
5 recent retirement.

6 (2) The postretirement compensation limitation provisions set
7 forth in this section are not applicable to compensation earned for
8 the performance of the activities described in subdivision (a) for
9 which the employer is not eligible to receive state apportionment
10 or to compensation that is not creditable pursuant to Section
11 22119.2.

12 (f) The limitation that shall apply to the compensation for
13 performance of the activities identified in subdivision (a) or (b) of
14 Section 22119.5 by a member retired for service under this part
15 either as an employee of an employer, an employee of a third party,
16 or as an independent contractor shall, in any one school year, be
17 an amount calculated by the board each July 1 equal to twenty-two
18 thousand dollars (\$22,000) adjusted by the percentage change in
19 the average compensation earnable of active members of the
20 Defined Benefit Program, as determined by the system, from the
21 1998–99 fiscal year to the fiscal year ending in the previous
22 calendar year.

23 (g) If a member retired for service under this part earns
24 compensation for performing activities identified in subdivision
25 (a) or (b) of Section 22119.5 in excess of the limitation specified
26 in subdivision (f), as an employee of an employer, as an employee
27 of a third party, or as an independent contractor, within the
28 California public school system, and if that compensation is not
29 exempt from that limitation under subdivision (e) or any other
30 provisions of law, the member's retirement allowance shall be
31 reduced by the amount of the excess compensation. The amount
32 of the reduction may be equal to the monthly allowance payable
33 but shall not exceed the amount of the annual allowance payable
34 under this part for the fiscal year in which the excess compensation
35 was earned.

36 (h) The amendments to this section enacted during the 1995–96
37 Regular Session shall be deemed to have become operative on July
38 1, 1996.

(i) This section shall remain in effect only until June 30, 2012, and shall be repealed on January 1, 2013, unless a later enacted statute deletes or extends that date.

SEC. 22. Section 24214 of the Education Code, as amended by Section 2 of Chapter 306 of the Statutes of 2009, is amended to read:

24214. (a) A member retired for service under this part may perform the activities identified in subdivision (a) or (b) of Section 22119.5, *or subdivision (a) or (b) of Section 26113*, as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system, but the member ~~may~~ *shall* not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. The employer shall maintain accurate records of the earnings of the retired member and report those earnings monthly to the system and retired member as described in Section 22461.

(b) If a member is retired for service under this part, the rate of pay for service performed by that member as an employee of the employer, as an employee of a third party, or as an independent contractor within the California public school system ~~may~~ *shall* not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties.

(c) A member retired for service under this part ~~may~~ *shall* not be required to reinstate for performing the activities identified in subdivision (a) or (b) of Section 22119.5 as an employee of an employer, as an employee of a third party, or as an independent contractor within the California public school system.

(d) A member retired for service under this part may earn compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in any one school year up to the limitation specified in subdivision (f) as an employee of an employer, as an employee of a third party, or an independent contractor, within the California public school system, without a reduction in his or her retirement allowance.

(e) The postretirement compensation limitation provisions set forth in this section are not applicable to compensation earned for the performance of the activities described in subdivision (a) for which the employer is not eligible to receive state apportionment or to compensation that is not creditable pursuant to Section 22119.2.

(f) The limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 by a member retired for service under this part either as an employee of an employer, an employee of a third party, or as an independent contractor shall, in any one school year, be an amount calculated by the board each July 1 equal to twenty-two thousand dollars (\$22,000) adjusted by the percentage change in the average compensation earnable of active members of the Defined Benefit Program, as determined by the system, from the 1998–99 fiscal year to the fiscal year ending in the previous calendar year.

(g) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (f), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

(h) The language of this section derived from the amendments to the section of this number added by Chapter 394 of the Statutes of 1995, enacted during the 1995–96 Regular Session, is deemed to have become operative on July 1, 1996.

(i) This section shall become operative on July 1, 2012.

SEC. 23. Section 24214.5 of the Education Code is amended to read:

24214.5. (a) Notwithstanding Section 24214, as of July 1, 2010, the postretirement compensation limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 either as an employee of an employer, an employee of a third party, or as an independent contractor, within the California public school system, shall be zero dollars (\$0) during the first six calendar months after *the most recent retirement of* a member retired for service under this part, if the member is below normal retirement age at the time the compensation is earned.

(b) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (a), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.

SEC. 24. Section 24216 of the Education Code is amended to read:

24216. (a) (1) A member retired for service under this part who is appointed as a trustee or administrator by the Superintendent pursuant to Section 41320.1, or who is appointed as a trustee pursuant to the Local Educational Agency Intervention provisions (Article 3.1 (commencing with Section 52055.57) of Chapter 6.1 of Part 28 of Title 2), or a member retired for service who is assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24, shall be exempt from subdivisions (d) and (f) of Section 24214 for a maximum period of 24 consecutive months.

(2) The period of exemption shall commence on the date the member retired for service is appointed or assigned to the position and shall end no more than 24 consecutive months from that date, after which the limitation specified in subdivisions (d) and (f) of Section 24214 shall apply.

(3) An exemption under this subdivision shall be granted by the system providing that the Superintendent or the county superintendent of schools submits documentation required by the system to substantiate the eligibility of the member retired for service for an exemption under this subdivision. The documentation shall be received by the system no later than ~~June 30 of the school year for which the exemption is to apply~~ *60 calendar days after the member retired for service commences creditable service.*

(b) (1) A member retired for service under this part who is employed by an employer to perform creditable service in an emergency situation to fill a vacant administrative position requiring highly specialized skills shall be exempt from the

1 provisions of subdivisions (d) and (f) of Section 24214 for
2 creditable service performed up to one-half of the full-time
3 position, if the vacancy occurred due to circumstances beyond the
4 control of the employer.

5 (2) The period of exemption shall commence on the date the
6 member retired for service is appointed or assigned to the position
7 and shall end no more than 24 consecutive months from that date,
8 after which the limitation specified in subdivisions (d) and (f) of
9 Section 24214 shall apply.

10 (3) An exemption under this subdivision shall be granted by the
11 system subject to the following conditions:

12 (A) The recruitment process to fill the vacancy on a permanent
13 basis is expected to extend over several months.

14 (B) The employment is reported in a public meeting of the
15 governing body of the employer.

16 (C) The employer submits documentation required by the system
17 to substantiate the eligibility of the member retired for service for
18 an exemption under this subdivision. The documentation shall be
19 received by the system no later than ~~June 30 of the school year for~~
20 ~~which the exemption is to apply~~ *60 calendar days after the member*
21 *retired for service commences creditable service.*

22 (4) An exemption under this subdivision shall not be granted
23 to a member retired for service whose termination of employment
24 with the employer is the basis for the vacant administrative
25 position.

26 (c) This section does not apply to any person who has received
27 additional service credit pursuant to Section 22715 or 22716.

28 (d) A person who has received additional service credit pursuant
29 to Section 22714 ~~or 22714.5~~ shall be ineligible for one year from
30 the effective date of retirement for the exemption provided in this
31 section for service performed in any school district, community
32 college district, or county office of education in the state.

33 (e) This section shall remain in effect only until June 30, 2012,
34 and shall be repealed on January 1, 2013, unless a later enacted
35 statute deletes or extends that date.

36 SEC. 25. Section 24216.5 of the Education Code is amended
37 to read:

38 24216.5. (a) The compensation earned by a member who
39 retired for service under this part shall be exempt from subdivisions

(d), (f), and (g) of Section 24214, if all of the following conditions are met:

(1) The member retired for service with an effective date on or before January 1, 2009.

(2) The member retired for service is employed by a school district to provide any of the following:

(A) Direct classroom instruction to pupils enrolled in kindergarten or any of grades 1 to 12, inclusive.

(B) Support and assessment for new teachers through the Beginning Teacher Support and Assessment program authorized by Section 44279.1.

(C) Support to individuals completing student teaching assignments.

(D) Support to individuals participating in the following programs:

~~(i) Pre-Internship Teaching Program authorized pursuant to Article 5.6 (commencing with Section 44305) of Chapter 2 of Part 25.~~

~~(ii)~~

(i) Alternative certification programs authorized pursuant to Article 11 (commencing with Section 44380) of Chapter 2 of Part 25.

~~(iii)~~

(ii) School Paraprofessional Teacher Training Program established pursuant to Article 12 (commencing with Section 44390) of Chapter 2 of Part 25.

(E) Instruction and pupil services provided to pupils enrolled in special education programs authorized pursuant to Part 30 (commencing with Section 56000) of Division 4 of Title 2.

(F) Instruction to pupils enrolled in English language learner programs authorized pursuant to Chapter 3 (commencing with Section 300), Chapter 4 (commencing with Section 400), and Chapter 6 (commencing with Section 430) of Part 1 of Division 1.

(3) All members retired for service whose employment with a school district meets the conditions specified in this section shall be treated as a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of a school

1 district. The compensation for service performed by this class of
2 employees shall be established in accordance with subdivision (b)
3 of Section 24214 and agreed to in the collective bargaining
4 agreement between the employing school district and the exclusive
5 representative for the existing bargaining unit within which these
6 temporary employees of the school district are treated as a distinct
7 class.

8 (4) The employing school district submits documentation
9 required by the system to substantiate the eligibility of the
10 temporary employment of a member retired for service for the
11 exemption under this subdivision. The documentation shall be
12 received by the system no later than ~~June 30 of the school year for~~
13 ~~which the exemption is to apply~~ *60 calendar days after the member*
14 *retired for service commences creditable service.*

15 (b) A school district that employs a member retired for service
16 pursuant to this section shall maintain accurate records of the
17 retired member's compensation earned and shall report that
18 compensation monthly to the system regardless of the method of
19 payment or the source of funds from which the compensation is
20 paid.

21 (c) This section does not apply to the compensation earned for
22 creditable service performed by a member retired for service for
23 a community college district.

24 (d) This section shall remain in effect only until June 30, 2012,
25 and shall be repealed as of January 1, 2013, unless a later enacted
26 statute deletes or extends that date.

27 SEC. 26. Section 24216.6 of the Education Code is amended
28 to read:

29 24216.6. (a) The compensation earned by a member who
30 retired for service under this part shall be exempt from subdivisions
31 (d), (f), and (g) of Section 24214, if all of the following conditions
32 are met:

33 (1) The member retired for service with an effective date on or
34 before January 1, 2009.

35 (2) The member retired for service is employed by a school
36 district to provide direct remedial instruction to pupils in grades
37 2 to 12, inclusive. "Remedial instruction" means the programs
38 specified in Sections 37252 and 37252.2.

39 (3) All members retired for service whose employment with a
40 school district meets the conditions specified in this section shall

1 be treated as a distinct class of temporary employees within the
2 existing bargaining unit whose service may not be included in
3 computing the service required as a prerequisite to attainment of
4 or eligibility for classification as a permanent employee of a school
5 district. The compensation for service performed by this class of
6 employees shall be established in accordance with subdivision (b)
7 of Section 24214 and agreed to in the collective bargaining
8 agreement between the employing school district and the exclusive
9 representative for the existing bargaining unit within which these
10 temporary employees of the school district are treated as a distinct
11 class.

12 (4) The employing school district submits documentation
13 required by the system to substantiate the eligibility of the
14 temporary employment of a member retired for service for the
15 exemption under this subdivision. That documentation shall be on
16 a properly executed form provided by the system and shall be
17 received by the system no later than ~~June 30 of the school year for~~
18 ~~which the exemption is to apply~~ *60 calendar days after the member*
19 *retired for service commences creditable service.*

20 (b) A school district that employs a member retired for service
21 pursuant to this section shall maintain accurate records of the
22 retired member's compensation earned and shall report that
23 compensation monthly to the system regardless of the method of
24 payment or the source of funds from which the compensation is
25 paid.

26 (c) This section does not apply to the compensation earned for
27 creditable service performed by a member retired for service for
28 a county office of education or a community college district.

29 (d) This section shall remain in effect only until June 30, 2012,
30 and shall be repealed as of January 1, 2013, unless a later enacted
31 statute deletes or extends that date.

32 SEC. 27. Section 24300.1 of the Education Code is amended
33 to read:

34 24300.1. (a) A member may, ~~prior to the effective date of his~~
35 ~~or her retirement~~ *upon application for retirement*, elect an option
36 pursuant to this part that would provide an actuarially modified
37 retirement allowance payable throughout the life of the member
38 and the member's option beneficiary or beneficiaries, as follows:

39 (1) One hundred percent beneficiary option. The modified
40 retirement allowance shall be paid to the member and upon the

1 member's death, 100 percent of the modified allowance shall
2 continue to be paid to the option beneficiary.

3 (2) Seventy-five percent beneficiary option. The modified
4 retirement allowance shall be paid to the member and upon the
5 member's death, 75 percent of the modified allowance shall
6 continue to be paid to the option beneficiary. Pursuant to Section
7 401(a)(9) of the Internal Revenue Code, unless the option
8 beneficiary is the member's spouse or former spouse who has been
9 awarded a community property interest in the benefits of the
10 member under this part, the member may not designate an option
11 beneficiary under this option who is more than exactly 19 years
12 younger than the member.

13 (3) Fifty percent beneficiary option. The modified retirement
14 allowance shall be paid to the member and upon the death of the
15 member, 50 percent of the modified allowance shall continue to
16 be paid to the option beneficiary.

17 (4) Compound option. The member may designate multiple
18 option beneficiaries or one or multiple option beneficiaries with
19 a designated percentage to remain unmodified. The member shall
20 elect an option as described in paragraph (1), (2), or (3) for each
21 designated option beneficiary that would provide an actuarially
22 modified retirement allowance payable throughout the lives of the
23 member and the member's option beneficiary or beneficiaries.

24 (A) The modified retirement allowance shall be paid to the
25 member as long as the member and at least one option beneficiary
26 is living. Upon the member's death, an allowance shall be paid to
27 each surviving option beneficiary in accordance with the option
28 elected respective to that option beneficiary. If an option
29 beneficiary predeceases the member, the member's allowance shall
30 be adjusted in accordance with the option elected for the deceased
31 option beneficiary.

32 (B) The member shall specify the percent of the unmodified
33 allowance that will be modified by the election of each option
34 described in paragraph (1), (2), or (3) of this subdivision. The
35 percent of the unmodified allowance that is not modified by an
36 option, if any, shall be payable to the member. The sum of the
37 percentages specified for the option beneficiary or beneficiaries
38 and the member's remaining unmodified allowance, if any, shall
39 equal 100 percent.

1 (C) The member's election of the compound option is subject
2 to all of the following:

3 (i) Pursuant to Section 401(a)(9) of the Internal Revenue Code,
4 unless the option beneficiary is the member's spouse or former
5 spouse who has been awarded a community property interest in
6 the member's benefits under this part, the member may not
7 designate an option beneficiary under the 100 percent beneficiary
8 option within this compound option who is more than exactly 10
9 years younger than the member.

10 (ii) Pursuant to Section 401(a)(9) of the Internal Revenue Code,
11 unless the option beneficiary is the member's spouse or former
12 spouse who has been awarded a community property interest in
13 the member's benefits under this part, the member may not
14 designate an option beneficiary under the 75 percent beneficiary
15 option within this compound option who is more than exactly 19
16 years younger than the member.

17 (b) For purposes of this section, the member shall designate an
18 option beneficiary on a properly executed form prescribed by the
19 system, which shall be ~~duly executed and~~ filed with the system ~~at~~
20 ~~the time on or before the last day of the month~~ of the member's
21 retirement. *Except as otherwise provided by this chapter, the option*
22 *shall become effective on the member's retirement date.*

23 (c) A member may revoke or change an election of an option
24 at any time prior to *the last day of the month* of the effective date
25 of the member's retirement under this part. A revocation of an
26 option may not be made in derogation of a spouse's or a former
27 spouse's community property rights as specified in a court order.

28 (d) If an option beneficiary designated pursuant to paragraphs
29 (1) to (3), inclusive, of subdivision (a) predeceases the member,
30 the retirement allowance shall be paid to the member without
31 modification for the option. If the option beneficiary predeceases
32 the member, the member may designate a new option beneficiary.
33 The effective date of the new designation shall be six months
34 following the date of notification is received by the board, provided
35 both the member and the designated option beneficiary are then
36 living. Notification shall be on a properly executed form provided
37 by the system. The designation of the new option beneficiary
38 pursuant to this subdivision is subject to an actuarial modification
39 of the unmodified retirement allowance and may not result in

1 additional liability to the fund. The new option beneficiary cannot
2 be an existing option beneficiary.

3 (e) Notwithstanding Section 297 or 299.2 of the Family Code,
4 a spouse described in paragraphs (2) and (4) of subdivision (a)
5 does not include the domestic partner of the member, pursuant to
6 Section 7 of Title 1 of the United States Code.

7 (f) If there is a determination of community property rights as
8 described in Chapter 12 (commencing with Section 22650) of this
9 part on or before December 31, 2006, the member may elect the
10 option that is required by the judgment or court order. Nothing in
11 this part shall permit the member to change the option to the
12 detriment of the community property interest of the nonmember
13 spouse.

14 (g) The board may evaluate the existing options and annuities
15 provided pursuant to this section, Chapter 38 (commencing with
16 Section 25000) of this part, and Part 14 (commencing with Section
17 26000) and adopt, as a plan amendment, any appropriate changes
18 to the options and annuities based on the needs of the members,
19 participants, and their beneficiaries, including, but not limited to,
20 providing economic security for beneficiaries and reducing the
21 complexity of the options and annuities. The changes to the options
22 and annuities may have no net actuarial impact on the retirement
23 fund and the board may establish any eligibility criteria the board
24 deems necessary to prevent an adverse actuarial impact to the fund.
25 The board shall designate the effective date of the plan amendment,
26 which shall be at least 18 months after the amendment is adopted
27 by the board, and notwithstanding any other provision of this
28 section, the options and annuities available to members and
29 participants eligible to retire pursuant to this part and Part 14
30 (commencing with Section 26000), after the effective date of the
31 plan amendment made pursuant to this subdivision, shall reflect
32 the changes adopted as a plan amendment to this subdivision.

33 SEC. 28. Section 24309 of the Education Code is amended to
34 read:

35 24309. (a) A member may change or cancel the election of an
36 option made pursuant to Section 24307. The change or cancellation
37 shall be on a properly executed form provided by the system and
38 received at the system's headquarters office, as established pursuant
39 to Section 22375, within 30 days of the date of the member's
40 signature and, if applicable, the spouse's signature, and before *the*

1 *last day of the month* of the effective date of retirement under this
2 part or during the period between termination of the retirement
3 allowance pursuant to Section 24117 or 24208 and *the last day of*
4 *the month* of the effective date of the subsequent retirement under
5 this part. The change or cancellation shall become effective as of
6 the date of the member's signature.

7 (1) Any change to an election of an option shall be made
8 according to Section 24307 and shall be considered a new
9 preretirement election of an option.

10 (2) Regardless of how the member elects to receive his or her
11 retirement allowance, a change made to an election of an option
12 or a cancellation of an option shall result in the reduction of that
13 allowance by an amount determined by the board to be the actuarial
14 equivalent of the coverage the member received as a result of the
15 preretirement election and that does not result in any adverse
16 funding to the plan.

17 (b) If the option beneficiary designated in the preretirement
18 election of an option pursuant to Section 24307 dies prior to the
19 member's retirement, the preretirement election shall be canceled
20 as of the day following the date of death and the member's
21 subsequent retirement allowance under this part shall be subject
22 to the allowance reduction prescribed in this section.

23 (c) If the option elected pursuant to Section 24307 is "Option
24 8" as described in paragraph (7) of subdivision (a) of Section 24300
25 or the compound option as described in paragraph (4) of
26 subdivision (a) of Section 24300.1, a member may cancel the
27 designation of an option beneficiary. If the member cancels the
28 designation of the option beneficiary or the option beneficiary
29 predeceases the member prior to the member's retirement, the
30 member may elect to receive that portion of the retirement
31 allowance without modification for the option or elect one or
32 multiple new or existing option beneficiaries as described in
33 Section 24307. Any change or cancellation of the designation of
34 the option beneficiary under this subdivision shall result in the
35 allowance reduction prescribed in this section.

36 SEC. 29. Section 24600 of the Education Code is amended to
37 read:

38 24600. (a) A retirement allowance under this part begins to
39 accrue on the effective date of the member's retirement and ceases
40 on the earlier of the day of the member's death or the day on which

1 the retirement allowance is terminated for a reason other than the
2 member's death.

3 (b) A retirement allowance payable to an option beneficiary
4 under this part begins to accrue on the day following the day of
5 the retired member's death and ceases on the day of the option
6 beneficiary's death.

7 (c) A disability allowance under this part begins to accrue on
8 the effective date of the member's disability allowance and ceases
9 on the earlier of the day of the member's death or the day on which
10 the disability allowance is terminated for a reason other than the
11 member's death.

12 (d) A family allowance under this part begins to accrue on the
13 day following the day of the member's death and ceases on the
14 day of the event that terminates eligibility for the allowance.

15 (e) A survivor benefit allowance payable to a surviving spouse
16 under this part pursuant to Chapter 23 (commencing with Section
17 23850) begins to accrue on the day the member would have
18 attained 60 years of age or on the day following the day of the
19 member's death, as elected by the surviving spouse, and ceases
20 on the day of the surviving spouse's death.

21 (f) ~~A(1)~~ *Except as provided in paragraph (2), a child's portion*
22 *of an allowance under this part begins to accrue on the effective*
23 *date of that allowance and ceases on the earlier of either the*
24 *termination of the child's eligibility or the termination of the*
25 *allowance.*

26 *(2) A child's portion of a disability retirement allowance under*
27 *Chapter 26 (commencing with Section 24100) ceases on the earlier*
28 *of either:*

29 *(A) The termination date of the child's eligibility.*

30 *(B) The termination of the allowance for reasons other than*
31 *death.*

32 (g) Supplemental payments issued under this part pursuant to
33 Sections 24412 and 24415 to retired members, disabled members,
34 and beneficiaries shall begin to accrue pursuant to Sections 24412
35 and 24415 and shall cease to accrue as of the termination dates
36 specified in subdivisions (a) to (f), inclusive, of this section.

37 (h) Notwithstanding any other provision of this part or other
38 law, distributions payable under the plan with respect to the
39 Defined Benefit Program and the Defined Benefit Supplement
40 Program shall be made in accordance with applicable provisions

1 of the Internal Revenue Code of 1986 and related regulations. The
2 required beginning date of benefit payments that represent the
3 entire interest of the member in the plan with respect to the Defined
4 Benefit Program and the Defined Benefit Supplement Program
5 shall be either:

6 (1) In the case of a refund of contributions, as described in
7 Chapter 18 (commencing with Section 23100) of this part and
8 distribution of an amount equal to the balance of credits in a
9 member's Defined Benefit Supplement account, as described in
10 Chapter 38 (commencing with Section 25000) of this part, not
11 later than April 1 of the calendar year following the later of (A)
12 the calendar year in which the member attains the age at which
13 the Internal Revenue Code of 1986 requires a distribution of
14 benefits or (B) the calendar year in which the member terminates
15 employment within the meaning of subdivision (i).

16 (2) In the case of a retirement allowance, as defined in Section
17 22166, not later than April 1 of the calendar year following the
18 later of (A) the calendar year in which the member attains the age
19 at which the Internal Revenue Code of 1986 requires a distribution
20 of benefits or (B) the calendar year in which the member terminates
21 employment within the meaning of subdivision (i), to continue
22 over the life of the member or the lives of the member and the
23 member's option beneficiary, or over the life expectancy of the
24 member or the life expectancy of the member and the member's
25 option beneficiary.

26 (i) For purposes of subdivision (h), the phrase "terminates
27 employment" means the later of:

28 (1) The date the member ceases to perform creditable service
29 subject to coverage under this plan.

30 (2) The date the member ceases employment in a position
31 subject to coverage under another public retirement system in this
32 state if the compensation earnable while a member of the other
33 system may be considered in the determination of final
34 compensation pursuant to Section 22134, 22135, or 22136.

35 SEC. 30. Section 26505 of the Education Code is amended to
36 read:

37 26505. If a participant who has retired and is receiving an
38 annuity under the Cash Balance Benefit Program becomes
39 reemployed prior to 60 years of age ~~or becomes reemployed on or~~
40 ~~after 60 years of age but within one year of his or her retirement~~

1 ~~date, to perform creditable service subject to coverage by the plan,~~
2 ~~the annuity shall be terminated, the employee account and the~~
3 ~~employer account of the participant shall be credited with~~
4 ~~respective balances that reflect the actuarial equivalent of the~~
5 ~~participant's retirement benefit as of the date of the reemployment~~
6 ~~and the Annuitant Reserve shall be reduced by the amount of the~~
7 ~~credits. If a participant who has retired and is receiving an annuity~~
8 ~~under the Cash Balance Benefit Program becomes reemployed on~~
9 ~~or after age 60 and more than one year after retirement to perform~~
10 ~~creditable service under the plan, the annuity shall continue and~~
11 ~~employee contributions and employer contributions for the~~
12 ~~creditable service shall be made to the plan and shall be credited~~
13 ~~to new employee and employer accounts established on behalf of~~
14 ~~the participant.~~

15 SEC. 31. Section 26812 is added to the Education Code, to
16 read:

17 26812. (a) A participant retired for service under this part may
18 perform the activities identified in subdivision (a) or (b) of Section
19 26113 as an employee of an employer, as an employee of a third
20 party, or as an independent contractor within the California public
21 school system, but the participant shall not make contributions to
22 the plan or accrue service credit based on compensation earned
23 from that service. The employer shall maintain accurate records
24 of the earnings of the retired member and report those earnings
25 monthly to the system and retired member as described in Section
26 22461.

27 (b) If a participant is retired for service under this part, the rate
28 of pay for service performed by that member as an employee of
29 the employer, as an employee of a third party, or as an independent
30 contractor shall not be less than the minimum, nor exceed that paid
31 by the employer to other employees performing comparable duties.

32 (c) A participant retired for service under this part shall not be
33 required to reinstate for performing the activities identified in
34 subdivision (a) or (b) of Section 26113 as an employee of an
35 employer, as an employee of a third party, or as an independent
36 contractor within the California public school system.

37 (d) If a participant retired for service under this part is below
38 normal retirement age and earns compensation for performing
39 activities identified in subdivision (a) or (b) of Section 26113 as
40 an employee of an employer, as an employee of a third party, or

1 as an independent contractor, within the California public school
2 system, the participant's annuity shall be reduced by the amount
3 of the compensation. This reduction shall only be made for
4 compensation earned during the first 180 calendar days after a
5 participant retired for service under this part, if the participant is
6 below normal retirement age at the time the compensation is
7 earned. The amount of the reduction may be equal to the monthly
8 annuity payable but shall not exceed the amount of the annual
9 annuity payable under this part for the fiscal year in which the
10 compensation was earned.

11 SEC. 32. Section 26813 is added to the Education Code, to
12 read:

13 26813. A member retired for service under the Defined Benefit
14 Program may perform the activities identified in subdivision (a)
15 or (b) of Section 22119.5 and subdivision (a) or (b) of Section
16 26113 in any one school year up to the limitation specified in
17 sections 24214 and 24214.5 as an employee of an employer, as an
18 employee of a third party, or as an independent contractor within
19 the California public school system, but the member may not make
20 contributions to the fund or accrue service credit based on
21 compensation earned from that service. The employer shall
22 maintain accurate records of the earnings of the retired member
23 and report those earnings monthly to the system and retired member
24 as described in Section 22461.

25 SEC. 33. Any section of any other act enacted by the
26 Legislature during the 2011 calendar year that takes effect on or
27 before January 1, 2012, and that amends, amends and renumbers,
28 adds, repeals and adds, or repeals a section that is amended,
29 amended and renumbered, added, repealed and added, or repealed
30 by this act, shall prevail over this act, whether that act is enacted
31 prior to or subsequent to the enactment of this act. The repeal, or
32 repeal and addition, of any article, chapter, part, title, or division
33 of any code by this act shall not become operative if any section
34 of any other act that is enacted by the Legislature during the 2010
35 calendar year and takes effect on or before January 1, 2012,
36 amends, amends and renumbers, adds, repeals and adds, or repeals
37 any section contained in that article, chapter, part, title, or division.